

Appeal Decision

Site visit made on 24 June 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th July 2020

Appeal Ref: APP/D2510/W/20/3247501

**Land off and adjacent to Winceby Gardens/Banovallum Gardens,
Horncastle, Lincolnshire LN9 6PJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Gleeson Regeneration Ltd against the decision of East Lindsey District Council.
 - The application Ref S/086/02438/18, dated 19 December 2018, was refused by notice dated 9 December 2019.
 - The development proposed is the erection of 97 dwellings, erection of garages and fences, construction of vehicular accesses and estate roads, provision of public open space and a play area and drainage features.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the appeal form and the Council decision notice as this reflects the scheme as revised following amendment during the processing of the application.
3. A revised landscaping scheme drwg. No.2883/2 rev B and 2883/3 Rev B was submitted by the appellant during the appeal. I have determined the appeal using these drawings and do not consider any party would be prejudiced in doing so.

Main Issues

4. The main issues in this case are;
 - The effect of the proposed development on the character and appearance of the area with particular regard to density and layout;
 - Whether the proposed children's play space is suitably located;
 - Whether the proposed development would achieve satisfactory living conditions for existing residents on Winceby Gardens and Banovallum Gardens with particular regard to outlook and privacy.

Reasons

Character and Appearance

5. The appeal site is currently an agricultural field although it is not presently under active cultivation, with two stub roads off the existing housing estates which would facilitate access. There is no dispute between the main parties about the suitability of the site for residential development.
6. Much, however, has been made regarding the proposed density of the development relative to that of the nearby housing estates. It is evident that these vary reflecting the time that they were constructed and the evolution of the town's development. The scheme of 97 dwellings on a site of 3.73 Ha equates to 26 dwellings per Ha by my calculation, the Council Officer report states it is 27.87 dwellings per Ha while the appellant uses the figure of 27.4. Irrespective of whether I accept the Council's calculation, the appellant's, or use my own, the policy tests in the Local Plan and the Neighbourhood Plan requires an assessment of the quality of the scheme and looks to achieve a development that reflects the character of the surrounding area.
7. Policy SP10 of the LP in dealing with design matters requires the density to 'reflect the character of the surrounding area' while the Neighbourhood Plan seeks to ensure that new development does not significantly and adversely affect the character and appearance of the neighbourhood in which it is located. It also says in Policy 2 that proposals will be expected to reflect the characteristics of the site and surrounding area.
8. The character and densities of the adjacent estates varies. The estate served off Winceby Gardens and Banovallum Gardens being bungalows while the area to the west off Saxon Way is a mixed two storey residential scheme closer to the edge of pavement and having a marked contrast in style and consequently character and appearance. A further change takes place off Clark Court a more recent development on the opposite side of the Thunker Drain from the appeal site. Both main parties have presented different calculations on densities for the neighbouring estates but have not agreed how the areas should be sub divided and so the figures presented differ.
9. As the surrounding estates differ in their character and density, the new development could not seek to mirror these schemes as they differ, but would need to respond positively to these different areas, reflecting the character and by doing so create a suitable place for people to live which respects the existing town.
10. While I accept the new development would be read as a new phase and creates its own character, in order to be policy compliant there needs to be an understanding and reflection of the current housing schemes which adjoin the site and the design should respond to this and thus positively transition between the different areas to provide for a development which will have a sense of place and harmonise with its surroundings.
11. It is also important to meet other policy objectives in terms of green infrastructure and suitable access to recreational opportunities that new developments incorporate suitable levels of open space on site. There is a shortfall below the standards for recreation across the Council area and while Horncastle itself is better than the average it is still below the level that is

being aimed for. In such circumstances it is even more important for new developments to achieve the standard the policy expects so as to not exacerbate the current shortage. I deal with this in the following section on playspace.

12. The scheme does not attempt to blend with the current housing schemes to the north but instead relies on the change in ground levels and boundary features to distinguish it from this adjacent development. This does not recognise the character of this current estate and consequently transition from the current edge of town location into the new development in order to assimilate this scheme into the town and positively harmonise with the existing. This would be particularly noticeable at both entrance points into the site where bungalows would flank the entrances. As such the layout and design of dwellings proposed, would be in marked contrast to the bungalow development to the north.
13. While it would be more reflective of the style of development off Saxon Way, the development being accessed off Banovallum Gardens and Winceby Gardens needs to recognise this relationship and respond positively to it particularly as this will be where the public would be likely to appreciate the relationship the most.
14. While the provision of open space on the southern side of the site adjacent Thunker Drain and across from Clark Court would represent a suitable transition between these different sites, and the countryside, overall the scheme does not achieve a layout which would be in keeping with the character of the area and consequently provide a suitable character and appearance for a new housing scheme in this edge of town location. As such I consider it conflicts with policy SP10 of the East Lindsey Local Plan Core Strategy (LP) (2018) and policy 2 of the Horncastle Neighbourhood Development Plan (NP) 2014-2029.

Playspace

15. The play space is located adjacent the entrance to the site at the northern side of the site adjacent the gardens of existing properties on Winceby Gardens. It is proposed to provide a Local Area of Play (LAP). Policy SP26 and the supporting paragraphs 13.10 and 13.11 seek to ensure open space, sport and recreation requirements are provided to a certain standard and within a prescribed distance from the development proposed.
16. These standards suggest a scheme of this size would be expected to provide a Local Area of Play (LAP), a Locally Equipped Area for Play (LEAP) and Multi Use Games Area (MUGA) or be within 100m, 400m or 480m respectively. The LAP while on site, being located at the north eastern corner is not within 100m of the whole site, there is no provision for any form of LEAP or MUGA, nor are these facilities available within the local area within the distances prescribed as might be expected to meet the policy requirements.
17. The nearest site I have been referred to is the open space off Thomas Gibson Drive, which at the time of my site visit was an unequipped recreation area, and while at its closest point to the appeal site is around 350m away it does not provide for the recreational opportunities available from a LEAP or MUGA.

18. The Council statement suggests that the location of the play area is a safety issue due to the proximity of the access road and a main junction of the spine road, this though is not reflected in the reason for refusal nor supported by advice from the highway authority. No evidence has been presented to explain why this site when suitably fenced would be unsafe when located within a residential area.
19. A LAP is designed for younger children who are likely to have adult supervision and be escorted to and from the site to play. There is no suggestion the roads do not meet appropriate safety standards for a housing scheme of this scale, and I do not consider this argument is sustained.
20. The provision of a sustainable drainage system certainly provides for an opportunity to assist in assimilating a site into its environment as has been referred to and used as an example within the National Design Guide Best Practice but this does not replicate active play opportunities that a LEAP or MUGA would afford. Nor with the undulations in ground level that is by their very nature part of the design make this area completely satisfactory for recreational opportunities.
21. In failing to provide play spaces that are both well located within the development, or to meet the standards of provision within the Local Plan, I consider the scheme conflicts with policy SP26 of the LP which requires developments to support the provision of such facilities.

Living Conditions

22. The existing properties to the north are bungalows who currently enjoy unrestricted views across attractive countryside. With no buildings behind them and having such an attractive outlook, it is understandable why concern has been raised about the relationship that would arise when new residential development at this scale is proposed. The Council concern is focused on the relationship to these properties and I set out my assessment below.
23. At the north eastern corner of the site, plot 1 as proposed would be gable end on to the boundary with the existing property which is angled away and achieves a suitable arrangement with a hedge and fence proposed along the party boundary. Plots 95 -97 are proposed to be sited behind properties angled away from the boundary and as such there is no direct 'face to face' relationship which could give rise to concern.
24. Plots 79 – 94 would back on to the existing properties on Banovallum Gardens and through the combination of the proposed finished floor levels, the proposed boundary treatment and the separation distances would result in satisfactory living conditions for existing and proposed residents, all be it, I recognise, it would represent a significant change from the current arrangements.
25. Plots 74 – 78 would back on to houses served off Saxon Way and while the ground levels would be similar, the gardens sizes indicated, and resultant separation distances achieved provide for satisfactory arrangements so that the living conditions of future and current occupiers would achieve acceptable standards.
26. Plot 78 would also have a shared boundary with properties on Banovallum Gardens. The secondary windows which would be in the side elevation and according to the Council would be some 17m from the rear of this property.

While the eaves and ridge are higher than the existing property the change in ground levels, boundary treatment, and separation distance provides a suitable relationship between properties such that the living conditions achieved would be suitable.

27. From the information before me I consider the proposal would achieve a suitable relationship to the neighbouring properties, and provide for appropriate standards of privacy and outlook for these residents and as such I consider the scheme would be in accord with the requirements of policies SP2, SP3, SP10 of the LP and policies 1 and 2 of the NP.

Other Matters

28. Following the submission of the appeal the appellant has provided a signed and sealed S106 legal agreement in order to facilitate the provision of affordable housing and other offsite infrastructure. This includes funds to be paid to the Council for works the Town Council hope to undertake to the Prospect Street Recreation Ground which is around 1.9km away across the A158. This is a considerable distance from the appeal site and even with the provision of a crossing of the A158 subject to significant accessibility constraints relative to the appeal site.
29. The Framework at paragraph 56 makes clear that a S106 must meet all 3 legal tests, including being directly related to the development. It is not clear how the improvement of the Prospect Street recreation ground is directly related to this development, and as such I do not afford the provision of this agreement full weight.
30. There would be benefits to allowing this scheme. It would bring forward 97 additional dwellings 11 of which would be affordable which I afford substantial weight within the planning balance despite the numbers being below what the policy would expect to be delivered. This though must be weighed against the conflict with the development plan in failing to provide a suitable level of well sited children's play areas and as such would lead to a form of development that would be harmful.
31. I have taken into account the representations regarding flood risk, surface water drainage, highway safety/impact but these matters do not affect my findings in respect of the main issues.

Conclusions

32. The appeal is dismissed.

Edwin Maund

INSPECTOR